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**XOPS SA (PTY) LTD (IN LIQUIDATION)**  
**REGISTRATION NUMBER: 2018/073122/07**  
**MASTER'S REFERENCE: C 817/2023**

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REPORT SUBMITTED BY THE JOINT LIQUIDATORS IN TERMS OF SECTION 402 OF THE  
COMPANIES ACT NO 61 OF 1973 AS AMENDED TO BE SUBMITTED AT A SECOND  
MEETING OF CREDITORS AND CONTRIBUTORIES TO BE HELD BEFORE THE  
MAGISTRATE, STELLENBOSCH ON 24 APRIL 2024 AT 10H00.

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**ORDER OF THE COURT AND MEETINGS**

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Nature of Liquidation	Application to the High Court of South Africa (Western Cape High Court, Cape Town) - Case Number: 21207/2023
Date of Final Order	29 November 2023
Provisional Appointees	J F Klopper and L Venter
Date of 1 <sup>st</sup> Meeting of Creditors	28 February 2024 - three claims were admitted to be proved
Final Appointees	J F Klopper and L Venter

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**GENERAL AND STATUTORY INFORMATION**

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**REGISTRAR OF COMPANIES**

The Company was duly registered with the Registrar of Companies under their reference number 2018/073122/07.

**REGISTERED ADDRESS**

The registered address of the company was at 11 Neuron Road. Block D, Capital Place, Techno Park, Stellenbosch.

**DIRECTORS**

It appears from our investigations that the following person served as the sole director:  
Jonathan Paul Cruise - ID: 830514 5010 083

**AUDITORS**

The Financial reviewers at date of liquidation were RSM, 15 Greenwich Grove, Station Road, Rondebosch  
Ref: Andrew Galloway.

**BUSINESS OF THE COMPANY**

According to the information contained in the founding affidavit in support of the application for the company's liquidation its principal business activity is described as having conducted business as a digital security and NFT (non-fungible token) trader.



## STATEMENT OF AFFAIRS

We have been provided with a Statement of Affairs containing the information as required in terms of Section 363 of the Companies Act No. 61 of 1973 as amended. We will request the director to provide us with a signed Statement of Affairs.

### SECTION 402(A)

#### FINANCIAL STATEMENT OF ASSETS AND LIABILITIES

According to our investigations and the Statement of Affairs as required in terms of Section 363 of the Companies Act No 61 of 1973 the following would appear to represent the financial position of the Company as at the date of liquidation.

The following represents the assets and liabilities of the company at date of liquidation. Unless otherwise stated, these figures only represent estimates of the assets and liabilities and will change depending on the amounts of realisation of unsold assets and claims submitted for proof.

#### ASSETS

##### ENCUMBERED ASSETS

Movable Assets subject to landlord's hypothec	R 450 000.00
Vehicles	
2022 - New Volkswagen T6.1 Kombi 2.0TDI DSG 11 0KW Trendline	R 597 700.00
2022 - New Volkswagen Amarok 3.0 TDI H-Line	R 445 000.00
Shortfall	R 23 578 349.00

#### LIABILITIES

##### SECURED CREDITORS

Landlord secured by way of Hypothec	R 1 627 306.00
-Instalment Sale Agreement - Kombi	R 1 047 058.00
-Instalment Sale Agreement - Amarok	R 1 181 228.00

##### PREFERENT CREDITORS

Employees - in terms of Section 98A	R 784 000.00
SARS - PAYE	R 3 444 554.83

##### CONCURRENT CREDITORS

Concurrent portion of employee's claims	R 6 042 014.00
Concurrent creditors	R 10 944 888.00

<b>TOTAL</b>	<b>R 25 071 049.00</b>
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**NOTES:**

1. These figures are subject to change and verification.
2. The movables subject to the landlord's hypothec have been sold to a new tenant at an amount of R450 000 which is higher than the forced sale value of the assets subject to:
  - 2.1. a reservation of ownership in favour of the company;
  - 2.2. the extension of the joint provisional liquidators' powers to enable them to enter into the sale of the assets or the adoption of the resolutions accompanying this report; and
  - 2.3. the written consent of the landlord (which was obtained).
3. The proceeds are being held in trust pending the fulfilment of the conditions contained in paragraph 2 above.

**COMMENTS**

The sale of the Company's movable assets by way of private treaty as envisaged herein will become unconditional upon the adoption of the resolutions authorising us to do so.

There would appear to be no likelihood of a dividend accruing to concurrent creditors as only secured creditors may expect to receive a dividend.

It would in fact appear that there is a danger of a contribution being levied upon concurrent creditors who submit their claims for proof.

**SECTION 402(B)****CAUSES OF THE COMPANY'S FAILURE**

In the statement of affairs, the sole director stated that there was dissatisfaction from the landlord towards the CEO of TheXchange Group (the Company's shareholder), citing unclear communication, and the landlord expressed concern about the Company's failure to fulfil certain lease agreements. With rent overdue for several months, particularly for the lower levels of the Company's premises, and significant arrears accumulating for the top-level offices, the landlord sought and obtained the Company's liquidation through a successful application to the High Court of South Africa.

The director further attributed the Company's failure to the extended period of non-payment of rent and other outstanding debts, which amounted to around six months by the liquidation date, to the Shareholder's failure to inject necessary funds. As a service-oriented entity integral to TheXchange Group's operations, the Company depended on this funding to cover expenses such as staff salaries, administrative costs, and operational needs. Despite efforts to secure international funding, the Shareholder's failure to deliver by the end of November prompted the landlord to take legal action.

**SECTION 402(C)****REPORT UNDER SECTION 400(2)**

Should any further contraventions come to our attention an additional report will be submitted to the Master of the High Court in regard to such contraventions.

It is not our intention at this stage to submit a report to the Master of the High Court. However, we are still investigating this aspect and if necessary, a detailed report will be submitted to the Master in due course.



## **SECTION 402(D)**

### **PERSONAL LIABILITIES OF DIRECTORS OR OFFICERS**

At this stage we are unable to comment on whether the former director or officer of the company can be held personally liable for the debts of the company. A report will be submitted, should it become necessary. Investigations into the conduct of the company's affairs will however continue.

## **SECTION 402(E)**

### **LEGAL PROCEEDINGS**

As far as we are aware there are CCMA proceedings pending against the Company at the date of liquidation.

## **SECTION 402(F)**

### **FURTHER ENQUIRY**

Based on the information available to us at this stage, it appears that the attorneys representing certain employees are of the view that an enquiry with regard to the formation and failure of the Company in terms of the provisions of the Act might be necessary. Investigations are on-going with regard to the failure of the company and the conduct of its business.

## **SECTION 402(G)**

### **BOOKS AND RECORDS**

We are not yet in possession of all the books and records of the Company and are therefore unable to state with any certainty whether the provisions of Section 284 of the Act have been complied with.

## **SECTION 402(H)**

### **ESTIMATE DIVIDEND**

As mentioned above there would not appear to be any prospect of a concurrent dividend accruing to concurrent creditors and creditors will not be recommended to submit their claims for proof.

## **SECTION 402(I)**

### **MATTERS REQUIRING FURTHER DIRECTIONS OF CREDITORS AND CONTRIBUTORIES**

Such directions as we require, and sanction of the actions taken by the Provisional Liquidators and Liquidators to date, are contained in the Resolutions to be submitted for consideration and adoption, are attached hereto.



DATED AT STELLENBOSCH ON THIS 10th DAY OF APRIL 2024.

JF KLOPPER

JOINT LIQUIDATOR

DATED AT Big Bay ON THIS 10th DAY OF APRIL 2024.

L VENTER

JOINT LIQUIDATOR

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**RESOLUTIONS SUBMITTED AND ADOPTED AT THE SECOND MEETING OF CREDITORS  
HELD BEFORE THE MAGISTRATE, STELLENBOSCH ON 24 APRIL 2024 AT 10H00.****RESOLVED THAT:**

- 1 The report of Liquidator or Joint Liquidators, as the case may be, hereinafter referred to as (the Liquidator"), as submitted be received and adopted and all his actions referred to therein be and are hereby confirmed, ratified and approved.
- 2 All actions of whatsoever nature hereto before taken by the Provisional Liquidator and/or Liquidator be and are hereby confirmed, ratified and approved.
- 3 The Liquidator be granted the authority and is vested with all the powers mentioned in Section 386(4)(a) - (i) of the Companies Act No 61 of 1973, as amended, such powers to be exercised at his sole and absolute discretion.
- 4 The Liquidator be and is hereby authorised in his sole and absolute discretion to:
  - 4.1 Take legal advice on any question of law affecting the administration and distribution of the company;
  - 4.2 Institute or defend on behalf of the company any action or other legal proceedings of a civil nature for the recovery of monies due to the company or otherwise and subject to the provisions of any law relating to criminal procedure, institute any criminal proceedings;
  - 4.3 Hold any enquiry into the affairs of the company and/or any matter relating thereto;
  - 4.4 Investigate and institute legal proceedings for the recovery of any voidable or undue preferences, voidable dispositions of property or any other impeachable transactions of whatsoever nature and to abandon same at any time;
  - 4.5 Write up the books of the company as may be required, and if necessary, to produce a balance sheet, audited or not, as at the date of liquidation, either for the purpose of investigating the affairs of the company, establishing the claims of creditors, or any other purpose.
- 5 The Liquidator be and is hereby authorised in his sole and absolute discretion to employ and engage the services of attorneys and/or counsel (senior and/or junior) and/or accountants and/or bookkeepers and/or any employee of the insolvent and/or recording agents and/or any other person who in the sole discretion of the Liquidator may be of assistance in the winding-up of the company in relation to any matter referred to in 4 above and further to pay all the costs thereof of whatsoever nature out of the estate as costs incurred in the liquidation.
- 6 The Liquidator be and is hereby authorised to collection any debts due to the company and for the purpose thereof to sell or compound or compromise any of these debts for such sum and upon such terms and conditions as he in his sole discretion may deem fit, and to accept any part of the debt in settlement thereof, and to grant an extension of time for the payment of any such debt, and to abandon any debt which he in his sole discretion may deem to be irrecoverable.
- 7 The Liquidator be and is hereby authorised to dispose of any movable and immovable property of the company, whether in his possession or under his control now or to come into his possession or under his control in the future by public auction, private treaty or public tender upon such terms and conditions as he in his sole and absolute discretion shall determine and to abandon any such assets for which he can find no purchaser or abandon them to a secured creditor at the value placed thereon by such creditor or at such value as is agreed upon by the Liquidator and the creditor if such creditor's claim is secured by such assets and to sign all such documents as may be necessary to give effect to such disposition.
- 8 The Liquidator be and is hereby authorised and empowered in his sole discretion to compromise and admit any claim against the company of whatsoever nature and howsoever arising and whether disputed or not and whether actual, contingent, prospective, conditional, unconditional, assessed, unassessed, liquidated or unliquidated as a liquidated claim in terms of Section 78(3) of the Insolvency Act No 24 of 1936 as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended, at such amount as may be agreed upon by the Liquidator, provided that proof thereof has been tendered at a meeting of creditors.
- 9 That the payment of reasonable expenses incurred by the Liquidator / Joint Liquidator and /or Trustee / Joint Trustee for his / their employee's transportation and accommodation in carrying out any statutory duty or in the performance of his / their duty as Liquidator / Joint Liquidator and/or Trustee / Joint Trustee be paid as

administration costs additional to the Liquidator / Joint Liquidator and/or Trustee / Joint Trustee remuneration, immediately or as soon as the estate receives sufficient funds to meet such expenses. Such expenses include all reasonable hotel accommodation, necessary air travel, car rental and fuel calculated in accordance with AA-Tariff

- 10 That the payment of reasonable expenses incurred by the Liquidator / Joint Liquidator and/or Trustee / Joint Trustee in carrying out any statutory duty in or in the performance of his/their duty as Liquidator / Joint Liquidator and/or Trustee / Joint Trustee, be paid as administration costs additional to the Liquidator / Joint Liquidator and/or Trustee / Joint Trustee's remuneration. Such expenses include the expenses incurred for countrywide deeds office searches. Credit inform enquiries, ITC Enquiries, Deed Search Enquiries, obtaining copies of the Title Deeds, Bond documents, Court Orders and any other documents required, postages and petties and attendance at the Registrar of Deeds for the noting of Court Orders and attendance of any creditor meeting.
- 11 The Liquidators / Joint Liquidator and/or Trustee / Joint Trustees are/is hereby authorizes to charge as an administration expense against the estate, the costs of circularizing creditors, which include but not necessarily be limited to:

- The provisional and interim circular to creditors;
- Application for extensions and;
- Progress reports.

In each case the actual expenditure relating to the postage and photocopying of documents for the circular. Such expenses of obtaining photocopies shall include the costs of photocopying bundles for the purpose of creditors reports, circulars and in particular interrogations, which costs shall also include the costs of plastic binding covers and metal binders. The production of a certificate of the Provisional Liquidator / Liquidator / Trustee of such expenditure will be accepted by the creditors and will be sufficient proof of the disbursements.

- 12 The Liquidator be and is hereby authorised to make application for the destruction of books and records of the estate six months after the confirmation of the Final Liquidation and Distribution Account.
- 13 The Liquidator be and is hereby authorised to perform any act or exercise any power for which he is not expressly required by the Companies Act No 61 of 1973, as amended, to obtain the leave of the Court.
- 14 The Liquidator be and is hereby authorised to submit to the determination of arbitrators any dispute concerning the company or any claim or demand by or upon the company.
- 15 The Liquidator be and is hereby authorised to carry on or discontinue any part of the business of the company in so far as may be necessary for the beneficial winding-up thereof.
- 16 The Liquidator be and is hereby authorised to exercise *mutatis mutandis* the powers conferred upon a Liquidator by Section 35 (uncompleted acquisition of immovable property before liquidation) and 37 (effect of liquidation upon a lease) of the Insolvency Act No 24 of 1936, as amended, read with Section 339 of the Companies Act No 61 of 1973, as amended.
- 17 The creditors hereby consent to the Liquidators' remuneration ("the remuneration") being taxed by The Master of High Court in terms of Section 384 of the Act at the higher figure of:
  - 17.1 the prescribed tariff as is contained in Annexure CM 104 to the Winding up Regulations to the Act;
  - 17.2 the increased amount of work done by the Liquidators in terms of the actual time spent by their staff in the discharge of their duties in the winding-up as is reflected on properly kept timesheets at the charge out tariff of the respective professional and administrative staff and which will be deemed to be good cause for the increase of such remuneration.
- 18 The remuneration referred to in 17 above may further be increased based on aspects such as:
  - 18.1 the complexity of the estate in question;
  - 18.2 the degree of difficulty encountered by the Liquidators in the administration of the estate, and
  - 18.3 particular difficulties experienced by the Liquidators because of the nature of the assets or some other similar feature connected with the winding-up.
- 19 The further administration of the affairs of the company be left entirely in the hands and at the discretion of the Joint Liquidators.
- 20 That costs of attendance of creditors meetings be costs in the estate.
- 21 That the costs of courier services for purposes of creditors meetings be costs in the estate.

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q.q. CREDITORS

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q.q. DIRECTORS /  
SHAREHOLDERS

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PRESIDING OFFICER